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REMARKS

I. INTRODUCTION

In response to the Office Action dated January 12, 2006, claims 1, 16, 19, 34, and 37 have been amended. Claims 1-17, 19-35, and 37-49 remain in the application. Entry of these amendments, and re-consideration of the application, as amended, is requested.

II. CLAIM AMENDMENTS

Applicant's attorney has made amendments to the claims as indicated above. These amendments were made solely for the purpose of clarifying the language of the claims, and were not required for purposes of patentability.

III. STATUS OF CLAIMS

Claims 1-17, 19-35, and 37-49 are pending in the application.

Claims 1-5, 8-11, 15, 19-23, 26-28, 37-42, and 44-47 were rejected under 35 U.S.C. §102(e) as being obvious in view of U.S. Publication No. 2002/0104081 to Candelore et al. .

Claims 6, 7, 24, 25, 29, 33, and 43 were rejected under 35 U.S.C. §103(a) as being unpatentable over Candelore et al., in view of U.S. Patent No. 5,801,747 to Bedard.

Claims 12, 13, 48, and 49 were rejected under 35 U.S.C. §103(a) as being unpatentable over Candelore, in view of U.S. Patent No. 5,585,865 to Amano et al..

Claim 14 was rejected under 35 U.S.C. §103(a) as being unpatentable over Candelore, in view of U.S. Publication No. 2003/0056216 to Wugofski.

Claims 16 and 34 were rejected under 35 U.S.C. §103(a) as being unpatentable over Amano et al., in view of Bedard.

Claims 17 and 35 were rejected under 35 U.S.C. §103(a) as being unpatentable over Amano et al., in view of Bedard, and further in view of PCT Application No. WO 99/35843 to Wugofski.

Claim 30 and 31 were rejected under 35 U.S.C. §103(a) as being unpatentable over Candelore, in view of Bedard, and further in view of Amano et al.

Claim 32 was rejected under 35 U.S.C. §103(a) as being unpatentable over Candelore, in view of Bedard, and further in view of U.S. Publication No. 2003/0056216 to Wugofski.

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IV. GROUNDS OF REJECTION TO BE REVIEWED

Whether claims 1-5, 8-11, 15, 19-23, 26-28, 37-42, and 44-47 are patentable under 35 U.S.C. § 102(b) over U.S. Publication No. 2002/0104081, issued to Candelore et al. (hereinafter, the Candelore reference).

Whether claims 6, 7, 24, 25, 29, 33, and 43 are patentable under 35 U.S.C. § 103(a) over Candelore, in view of U.S. Patent No. 5,801,747, issued to Bedard.

Whether claims 12, 13, 48, and 49 are patentable under 35 U.S.C. § 103(a) over Candelore, in view of U.S. Patent No. 5,585,865, issued to Amano et al. (hereinafter, the Amano reference).

Whether claim 14 is patentable under 35 U.S.C. § 103(a) over Candelore, in view of U.S. Publication No. 2003/0056216, issued to Wugofski (hereinafter, the Wugofski '0056216 reference).

Whether claims 16 and 34 are patentable under 35 U.S.C. § 103(a) over Amano, in view of Bedard.

Whether claims 17 and 35 are patentable under 35 U.S.C. § 103(a) over Amano, in view of Bedard, and further in view of PCT Application No. WO 99/35843 issued to Wugofski (hereinafter, the Wugofski PCT reference).

Whether claims 30 and 31 are patentable under 35 U.S.C. § 103(a) over Candelore, in view of Bedard, and further in view of Amano.

Whether claim 32 is patentable under 35 U.S.C. § 103(a) over Candelore, in view of Bedard, and further in view of Wugofski '0056216.

V. ARGUMENTS

A. The Independent Claims Are Patentable Over The Prior Art

1. The Candelore Reference

U.S. Publication No. 2002/0104081, published August 1, 2002 to Candelore et al. discloses a method and system to maintain relative statistics for creating automatically a list of favorites. A tuning event is detected. Relative statistics are maintained on one or more items related to the tuning event. A list of favorites is created automatically based on the maintained relative statistics. By using relative statistics, ranking of favorites can be maintained efficiently within limited system resources.

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2. The Amano Reference

U.S. Patent No. 5,585,865, issued December 17, 1996 to Amano et al. discloses a television broadcast receiver which selects programs by genre and past viewing habits. A television receiver for receiving a television broadcast signal and tuning in a desired channel to receive a television signal on which a broadcast program of a predetermined genre is broadcast, and that performs the steps of entering a first genre code of a desired program, extracting a second genre code included in the television broadcast signal, making a comparison between the first genre code and the second genre code for all receivable channels, and, if a program corresponding to the first genre code is being broadcast in a plurality of channels, tuning in a channel having a past record of highest frequency of reception.

3. The Wugofski Reference

U.S. Publication No. 2003/0056216, published March 20, 2003 to Wugofski et al. discloses a system for managing favorite channels. The system manages favorite channel lists on a television, personal computer or PC/TV convergence environment. The favorite channel lists are dynamically created by a computerized system rather than manually created by a user who specifically identifies a set of channels to be included in the favorite channel list. In one embodiment of the invention, the computerized system generates a list of favorite channels based on a theme selected by the user. In another embodiment of the invention, the computerized system generates a list of favorite channels based on the channels most frequently viewed by the user.

4. The Bedard Reference

U.S. Patent No. 5,801,747, issued September 1, 1998 to Bedard discloses a method and apparatus for creating a television viewer profile. The method and apparatus monitors television viewing activity to determine preferred categories of programming and preferred channels of a viewer. To facilitate viewer access to preferred programming, the display of an electronic program guide may be configured in accordance with the monitored viewing activity to provide fast access to the preferred programming. The monitored viewing activity may also be used to provide a lock-out feature to prevent or limit the viewing of specified channels or categories of programming, or to identify and provide information of interest from the internet. In yet another embodiment of the

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invention, a viewer may automatically circulate through his or her preferred programming, as determined by monitoring the viewing activity of that viewer.

5.   The Wugofski PCT Reference

PCT Application No. WO 99/35843 discloses a computerized system for integrating Internet sources and television sources in a convergence system is disclosed. In one embodiment of the invention, the system integrates both television channels and internet channels in a single list of channels available on the system. The lists of channels are stored in an electronic program database. The system solves the problem of managing multiple channels from multiple sources by seamlessly integrating channels from the television with channels from the internet in a single channel list.

B.   Claims 1-5, 8-11, 15, 19-23, 26-28, 37-42, and 44-47 are Patentable Over Candelore Under 35 U.S.C. §102(e)

In paragraph (2), the Office Action rejected claims 1-5, 8-11, 15, 19-23, 26-28, 37-42, and 44-47 under 35 U.S.C. § 102(e) as anticipated by Candelore et al., U.S. Publication No. 2002/0104081 (Candelore).

Candelore discloses a system that generates a "favorites" list that presents the top ten channels based on total accumulated viewing time. Candelore-like systems are not new, and are acknowledged in the Applicant's specification at page 3, lines 21-22.

The Applicant's invention, as described in the claims, is fundamentally different than the Candelore system. When expressed in words, the difference is subtle, but those words define a system distinctly different in operation and effect. The difference is perhaps most succinctly defined in terms of "channel surfing".

The Final Office Action noted that "channel surfing" was not recited in the Applicant's claims. The claims have been amended to clarify this feature.

It is important to examine the context of Candelore in determining what it teaches and what it does not. Candelore acknowledges "channel surfing" but in a disparaging way:

> [0002] Today, a viewer can access a variety of programs on hundreds of different channels. A number of sources can broadcast programs via airwaves, cable, or by satellite. A common problem associated with having so many available programs and channels is finding a desired program to view. Many viewers simply "channel surf" or view programs sequentially until they find a desirable program. Although some viewers find channel surfing enjoyable, many viewers prefer a more direct method for selecting a program to view.

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Candelore acknowledges that systems were in place to determine viewing habits, but that this is difficult to do with the limited available resources:

> [0005] In addition, current TV broadcast systems have limited resources to determine the habits of viewers. For instance, to determine how long or how many times a viewer accesses the same channel or program, the TV broadcast system must maintain extensive statistics. Hence, a limitation of current TV broadcast systems is that they have limited resources to store and maintain such statistics. Consequently, if one statistical count is limited to a fixed size, e.g., a byte, the statistical count will roll over at a maximum count of "255." Thus, the statistical data may become inaccurate after a certain count.

Candelore then describes a system does indeed collect statistics based on tuning events, and presents a "favorites list" based on those statistics. Candelore teaches that tuning event statistics can include the number of times that a program was selected:

> [0030] For one embodiment, if a viewer accesses the "FAVORITE" key, a list of favorites based on one or more items can be provided automatically without a viewer having to program the list. For example, the "FAVORITE" key can be used to access a list that ranks favorites based on statistics for one or more items such as, for example, the number times a channel has been accessed. For alternative embodiments, the "FAVORITE" key can be used to change the type of item in which the list is ranking items. For example, a viewer can change the item to be based on programs watched within a six-month period.

Candelore also teaches that the statistics can include the time interval that the channel was selected. But for this embodiment, Candelore teaches a minimum time interval of 5 minutes, a value that is plainly too large to be considered "channel surfing":

> [0034] In exemplary Table 1, items can be tracked for the amount of time an item was viewed for a time interval. For example, items can tracked from varying time intervals (e.g., 5 minute time interval up to a 1 day time interval). Each item can be stored in one byte of memory providing a maximum count of "255." For the 1 day time interval, 6120 hours can be tracked or 255 days or 8.5 months can be tracked.

> [0035] In exemplary Table 2, items can be tracked from varying time intervals (e.g., 5 minute time interval up to a 1 day time interval) in which one and a half bytes of storage can be used. Thus, stat tables 406 can provide a maximum count of "4095" for each item. For the 1 day time interval, 98280 hours or 4095 days, or 136.5 months can be tracked.

> [0036] In exemplary Table 3, items can also be tracked from varying time intervals (e.g., 5 minute time interval up to a 1 day time interval) in which one and two bytes of storage can be used. Thus, stat tables 406 can provide a maximum count of "65535" for each item. For the 1 day time interval, 1572840 hours or 65535 days or 2184.5 months can be tracked.

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A "favorites list" generated from a viewers channel surfing habits would typically be distinctly different than the viewers habits generated from direct channel selection. For example, many television viewers turn a television on for background noise and watch it only intermittently if at all. Since the channel would remain selected for an extended period of time, this would cause the channel to be erroneously determined to be a "favorite" when in fact, the duration of the viewing is not indicative of the channel's "favorite" status.[1] Channel surfing, however is an activity in which the viewer is typically scanning the channels for something to watch, and is actively involved in making rapid channel selection yea/nay decisions.

Candelore, in fact, teaches away from generating favorites list via channel surfing input. Candelore is directed to a system that minimizes memory requirements by tracking time intervals in the order of five minutes. Channel surfing typically includes rapid changes from one channel to the next, and would be ignored by the Candelore system.

Candelore differs in at least another important respect. After accepting the user's input to channel surf an ordered scheduled of channels and using those inputs to prioritize channels, one embodiment of the Applicant's invention *reorders the same scheduled list of channels*, so that it may be presented to the user for further channel surfing. At best, Candelore presents a "favorites list" to the user, but that list is "auto-tuned" (see paragraph [0055]) by the system. Auto-tuning, of course, is incompatible with the channel-surfing aspects of the Applicants invention, and would distort any data collected thus far.

With that background, we turn to the rejections.

<u>With Respect to Claim 1, 19, and 37</u>: As amended, claim 1 recites:

> *A method of computing a schedule of channels, comprising the steps of:*
> *accepting channel surfing commands having a series of commands to tune a plurality of channels sequentially from an ordered schedule of channels;*
> *determining a duration of a time period during which each channel is tuned by the series of commands; and*
> *prioritizing the schedule of channels according to the duration of the time period during which each channel is tuned by the series of commands.*

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[1] The Candelore system may solve this problem by allowing the user to set the system to deliberately ignore this channel, but this requires that the user access a typically complicated selection interface.... thus, it is not a significant improvement from prior art systems that allow the user to enter "favorites" directly.

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As described above, Candelore does not disclose prioritizing a schedule of channels according to a duration of a time period during which channels are selected while channel surfing. Taken as a whole, Candelore actually teaches away from determining user preferences from channel surfing activities. Accordingly, the Applicants respectfully suggest that the rejection under 35 U.S.C. § 102(e) be withdrawn.

Claims 19 and 37 recites features analogous to those of claim 1 and are patentable on the same basis.

<u>With Respect to Claims 3, 21, and 39</u>: Claim 3 recites:

> *The method of claim 1, wherein the step of prioritizing the schedule of channels according to a duration of a time period during which each channel is tuned comprises the step of:*
> *reordering the ordered schedule of channels according to the duration of the time period between each of the series of commands.*

In its last communication, the Applicant pointed out that (1) claim 3 recites that *the* ordered schedule of channels (that was surfed in the preceding steps) is *reordered* (2) that the Candelore reference fails to disclose anything analogous to this feature, but instead discloses presenting a favorites list to the user (see paragraph [0055]), and that this favorite list is not surfed by the user.

The Final Office Action answered:

> With respect to applicant's argument that Candelore fails to disclose, the ordered schedule of channels is reordered, the examiner respectfully disagrees. The schedule of channels is reordered for the user when the user presses the favorite key on the remote control 5, and the user is presented with a reordered channel list of the available channels to the user.

Respectfully, this is incorrect. The first clause of claim 1 recites:

accepting ... a series of commands to tune a plurality of channels sequentially from an ordered schedule of channels

If this is accomplished as the Office Action suggests, it is selecting the "+" or "-" keys on the remote control. While this might be interpreted as "accepting a series of commands to tune a plurality of channels sequentially from an ordered schedule of channels" (here ... all available

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channels), the subsequent clause recited in claim 3 recites "*reordering* the ordered schedule of channels." Candelore does not do this because Candelore does not *reorder the* list of channels that was tuned from by selecting the "+" and "-" on the remote control. This would amount to changing the order of all of Candelore's available channels, and as shown below, Candelore does not disclose this. As described below, Candelore simply provides a favorites list.

[0006] According to one embodiment, a method is disclosed in which a tuning event is detected. Relative statistics are maintained on one or more items related to the tuning event. A list of favorites is created automatically based on the maintained relative statistics. By using the relative statistics, ranking of favorites can be maintained efficiently within limited system resources. Furthermore, a viewer can be presented with a selection of favorites based on a number of items without having to program manually the list of favorites.

[0020] The IRD 2 can also provide on-screen displays (OSDs) to display device 4 such as EPG 4A to assist a viewer in selecting channels. As will be explained in more detail below, IRD 2 can be used to maintain relative statistics on one or more items related to a tuning event (i.e., a selected channel or program). The relative statistics can be used to create automatically a list of favorites, which can be accessed via EPG 4A or a "Favorite" key or button on remote controller 5. Display device 4 can be a television (TV) set receiving analog or digital signals. Remote controller 5 is a control device for a viewer to provide inputs to IRD 2 or display device 4. Remote controller 5 can include alphanumeric keys, options keys, function keys, and other like keys to operate IRD 2 or display device 4. In particular, a viewer can access and navigate through the EPG 4A by pressing selectively certain buttons or keys on remote controller 5.

[0027] The central processing unit (CPU) 29 is the central control mechanism for IRD 2. The CPU 29 can execute code stored in the read only memory (ROM) 37, electrically erasable programmable read only memory (EEPROM) 38, or static random access memory (SRAM) 36. Although not shown in FIG. 2, CPU 29 can also access data buffer 51 to access EPG data. For one embodiment, CPU 29 is used to process tuning events from tuner 21 to maintain relative statistics on or more items related to the tuning events and to create automatically a list of favorites using the maintained relative statistics. Furthermore, CPU 29 can be used to process user inputs received from the front panel buttons or switches 40 or from user inputs received via photodetector circuit 39 and remote controller 5. CPU 29 can also be used to program user settings/preferences for broadcast system 100, which can be stored in any of the memory devices of IRD 2.

[0030] For one embodiment, if a viewer accesses the "FAVORITE" key, a list of favorites based on one or more items can be provided automatically without a viewer having to program the list. For example, the "FAVORITE" key can be used to access a list that ranks favorites based on statistics for one or more items such as, for example, the number times a channel has been accessed. For alternative embodiments, the "FAVORITE" key can be used to change the type of item in which the list is ranking items. For example, a viewer can change the item to be based on programs watched within a six-month period.

[0038] As evident in Tables 1 through 4, the amount of memory needed, e.g., for memory 404, is reasonable even if two bytes of storage were allocated for each tracked item. The list of favorites 408 can rank each item within a particular favorite list. For example, the list of favorites 408 can provide a list of top 15 channels which have the highest count value in stat tables 406. Thus, a user can access EPG 4A to cycle through the list of favorites 408.

[0039] Furthermore, channels, programs, actors, directors, themes, awards, and years produced and other items may be tracked in one large list. In addition, each attribute or item may be given different weighting. This may be desirable because it allows more attributes for which to find common criteria to be called a "Favorite" for

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list of favorites 408. For one embodiment, all attributes are weighed differently. For example, if actors are tracked along with the others criteria, the other criteria may be given a greater weight because the odds of seeing a movie with the same actor is low. Furthermore, directors can direct many movies in which case, directors should be weighed less than actors, but more heavily than channels. Each item may be weighed differently as shown in Table 5.

[0046] If the list of favorites 408 is based on Table 5 above, items based on Themes (having the highest weighted value) would be ranked first in the list of favorites 408.

[0047] For one embodiment, CPU 29 can create list of favorites 408 in real-time or on-the-fly. That is, if a viewer hits the "FAVORITE" key on remote controller 5, the items in the list of favorites 408 will be displayed automatically to the viewer on display device 4. The list of favorites 408 can be based on the 10 most viewed channels. For instance, the CPU 29 starts with the first 10 channels and sorts them by time and reviews the other channel records. The CPU 28 can replaces the channel with the lowest amount of time with new ones that it finds with more time using statistics stored in stat tables 406.

[0055] FIG. 9 illustrates a diagram 900 of a decoder 904 that can be programmed to operate in varying modes according to one embodiment. Referring to FIG. 9, decoder 904 can operate in a learn mode 912, an auto-home mode 914, and an auto-tune mode 916. For one embodiment, decoder 904 can be a receiver such as IRD 2 shown in FIG. 1 that is programmed to operate in modes 912, 914, and 916. In these modes, the list of favorites is a consecutive list of programs that may be auto-tuned without user involvement. This prevents the user from needing to even select a channel or program from the main guide or favorites guide. The channels can be tuned automatically on a daily or weekly basis. For example, a daily pattern may be identified, e.g. that the nightly news is always tuned at a particular time, and this can be added to a auto-tune favorites. Alternatively, the pattern may be on a weekly basis, e.g. that Star Trek Voyager which is on every Monday night on a particular channel is tuned. In that case, there would be a auto-tune favorite for each day of the week. On Mondays, at a particular time, Star Trek Voyager would be auto-tuned.

[0056] If in learn mode 912, decoder 904 memorizes programs that are tuned into for a given period of time. If in auto-home mode 914, decoder 904 can automatically switch to channels that contain items in list of favorites 804. In auto-home mode 914, a small icon can be caused to blink on a display. The icon can disappear after a number of seconds or minutes of display. If in auto-tune mode 916, decoder 904 can tune into channels or programs that were learned in learn mode 912. For example, decoder 904 can learn programs viewed by a viewer in a period of week. Decoder 904 can be configured to have inputs to select the different modes or be accessed through EPG 4A.

[0057] It is an intended advantage to make the list of favorites apply to more than a particular device since there may be a great deal of time and effort invested with a particular list of favorites to make it particularly accurate. For one embodiment, the favorites list may be associated with group viewing, e.g. a family, or even individual members of a group, e.g. the family. The favorites list should be useful not only for set top boxes but any other appliance inside and outside the home such as a Personal Data Assistant (PDA), Digital Wallet, PC, Personal Video Recorder (PVR), and TV. Since the list of favorites may have taken a long time to develop, such transfers of data can save a great deal of time. The list of favorites need not actually be stored on the devices in the consumers possession, rather, it may be stored at a controlling server. In such cases, the consumer can simply identify the devices that should operate on the list of favorites. If the transfers are between devices, then there are many methods that may be employed. Some transfer the data to a controlling server and then to the other device. Other methods, transfer the data on some sort of portable medium, e.g. Sony's Memory Stick, or beaming the data using infrared signals between the devices.

Accordingly, the Applicants respectfully traverse the rejection of claim 3.

Claims 21 and 39 recites analogous features and are patentable for the same reasons.

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Claims 4-5, and 21-23, and 40-42 depend on claims 3, 21, and 39 respectively, and are patentable for the same reasons.

With Respect to Claims 8, 26, and 44 : Claim 8 recites the step of reordering the reordered schedule of channels in sequential order. In other words, back to the order they were presented before the reordering (based on the duration of the time period) took place. This allows the user to surf channels in sequential order again. Nothing in the Candelore reference even remotely suggests this feature.

The Final Office Action disagrees, arguing that this is analogous to pressing the EXIT key on the remote control. Of course, this is untrue. Closing Candelore's "favorites list" is not analogous to reordering the sequential channels back into sequential order.

Claims 26 and 44 recite analogous features and are patentable for the same reasons.

With Respect to Claims 10, 28, and 46: Claim 10 recites that the reordering of the reordered schedule of channels into sequential order is performed at a time associated with a change in a threshold number of media programs associated with the channels in the schedule of channels. For example, at the top of the hour when new media programs selections are available (see specification, page 4, lines 1-2). The phrase "change" in the phrase "change in a threshold number of the media programs associated with the channels in the schedule of channels" refers to a change in the media programs, not the threshold number.

The Final Office Action answers:

> With respect to applicant's arguments that Candelore fails to disclose reordering the schedule of channels sequentially based on a change in a threshold number of media program(s) associated with the channels in the schedule of channels, the examiner respectfully disagrees. Although the claim requires the schedule to be reordered sequentially, the claim does not require what sequential order the channels be reordered, for example, are the channels listed in ascending order or descending order.

The Applicant responds that it does not matter whether the channels are reordered in ascending or descending order. Candelore discloses neither one. The Final Office Action continues:

> Further, in response to the applicant's argument that the references fail to show certain features of the applicant's invention, it is noted that the features upon which applicant relies (i.e. channels are reordered sequentially at the top of the hour when new media program selections are available) are not recited in the rejected claim(s).

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The Applicant answers that he did not rely "channels are reordered sequentially at the top of the hour when new media program selections are available" in pointing out the patentability of his claims. That statement was provided as an example intended to assist the Examiner in understanding the claim. Claim 10 is patentable for the same reasons Applicant provided in his amendment ... because Candelore does not disclose reordering the schedule from one that reflects viewing preferences back to sequential order at a time associated with a change in a threshold number of the media programs associated with the channels in the schedule of channels.

Claims 28 and 46 are patentable for the same reasons.

In summary, claims 3, 8, and 10 and analogous claims and claims dependent thereupon are patentable over Candelore, because Candelore does not disclose reordering a schedule of channels to reflect viewing preferences (as described in claim 3), does not disclose reordering the schedule back to sequential order (as described in claim 8), and does not disclose doing so at a time associated with a change in a threshold number of the media programs associated with the channels in the schedule of channels, (as described in claim 10). Nor are anything like these features even remotely suggested.

C. Claims 6, 7, 24, 25, 29, 33, and 43 are Patentable Over Candelore in View of Bedard under 35 U.S.C. §103(a)

Claims 6, 7, 24, 25, 29, 33, and 43 recite the features of the claims they depend upon and are patentable for the same reasons.

D. Claims 12, 13, 48, and 49 are Patentable over Candelore in View of Amano Under 35 U.S.C. §103(a)

Claims 12, 13, 48, and 49 recite the features of the claims they depend upon and are patentable for the same reasons.

E. Claim 14 is Patentable Over Candelore in View of Wugofski Under 35 U.S.C. §103(a)

Claim 14 recites the features of claim 1, and is patentable for the same reasons.

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F. Claims 16 and 34 are Patentable over Amano in View of Bedard Under 35 U.S.C. §103(a)

<u>With Respect to Claim 16</u>: As currently amended, claim 16 recites:

> *A method of computing a schedule of channels, comprising the steps of:*
> *accepting data indicative of user interest in media programs transmitted on a plurality of channels;*
> *accepting channel surfing commands having a series of commands to tune a plurality of channels sequentially from a schedule of channels;*
> *determining a duration of a time period during which each channel is tuned by the series of commands; and*
> *prioritizing a schedule of channels having at least a subset of the plurality of channels according to the user interest in the media programs and the duration of the time period during which each channel is tuned by the series of commands.*

Amano does not teach *determining a duration of a time period during which each channel is tuned by channel surfing commands having a series of commands to tune a plurality of channels sequentially from a schedule of channels*. Amano discloses an up-down button, but as the Final Office Action recognizes, does not determine a duration of a time period during which each channel is tuned *by the series of commands tuning sequentially from the schedule of channels*. Like Candelore, Amano teaches that channel surfing is to be ignored, expressly teaching away from the Applicant's invention.

> If there are a plurality of programs of the specified genre (step 47), a message (OTHER) as shown on the CRT 24 of FIG. 3 is displayed. This "OTHER" message is generated by the character generator 20 connected to the microcomputer and displayed on the CRT 24 when the switch 6 is switched by the microcomputer 13. This message tells the user that a sports program is being broadcast on other channels. This message disappears after a predetermined period of time. If a plurality of sports programs are being broadcast, the microcomputer 13 checks the frequency memory 19 connected thereto (step 49) and selects a channel having the highest reception frequency (step 50). The frequency memory 19 stores reception frequency data about programs viewed in the past, classified by day of the week and time zone, or period. If the sports program first displayed on the CRT is not a desired program, the user presses the same genre button ("Sports" in this case) for example again (step 51) to select a program having a second higher reception frequency. If programs of the specified genre are being broadcast on three channels for example, the operation of step 51 can be repeated twice (steps 52, 53). It should be noted that in the preferred embodiment, this channel switching operation can be performed only while the above-mentioned message is on display since such display correlates to the genre select mode. It should also be noted that in the preferred embodiment the reception frequency data stored in the frequency memory 19 can be updated only if a particular program is selected for some predetermined minimum period of time, for example, 10 minutes or more. (col. 6, lines 53-63)

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As the Office Action also recognizes, Bedard also teaches that short viewing durations should be disregarded. Accordingly, both Amano and Bedard teach away from the Applicants invention.

Claim 34 recites analogous features and is patentable for the same reasons.

G. Claims 17 and 35 are Patentable over Amano in View of Bedard and in Further View of Wugofski WO 99/35843 Under 35 U.S.C. §103(a)

Claims 17 and 35 recite the features of the claims they depend upon and are patentable for the same reasons.

H. Claims 30 and 31 are Patentable over Candelore in view of Bedard and in Further View of Amano Under 35 U.S.C. §103(a)

Claims 31 and 32 recite the features of the claims they depend upon and are patentable for the same reasons.

I. Claim 32 is Patentable over Candelore in View of Bedard and in further View of Wugofski under 35 U.S.C. §103(a)
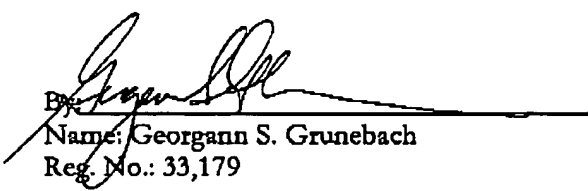
Claim 32 recites the features of the claims it depends upon and is patentable for the same reasons.

VI. CONCLUSION

In view of the above, it is submitted that this application is now in good order for allowance and such allowance is respectfully solicited. Should the Examiner believe minor matters still remain that can be resolved in a telephone interview, the Examiner is urged to call Applicant's undersigned attorney.

Respectfully submitted,

Date: March 6, 2006

By:

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